

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO PUBLIC FINANCES; INCREASING THE AMOUNT OF THE  
ALLOWABLE INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN  
NEW MEXICO FILM PRIVATE EQUITY FUNDS OR A NEW MEXICO FILM  
PROJECT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-27-5.26 NMSA 1978 (being Laws 2000  
(2nd S.S.), Chapter 6, Section 2, as amended) is amended to  
read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW  
MEXICO.--

A. No more than five percent of the market value  
of the severance tax permanent fund may be invested in New  
Mexico film private equity funds or a New Mexico film project  
under this section.

B. If an investment is made under this section,  
not more than fifteen million dollars (\$15,000,000) of the  
amount authorized for investment pursuant to Subsection A of  
this section shall be invested in any one New Mexico film  
private equity fund or any one New Mexico film project.

C. The state investment officer shall make  
investments pursuant to this section only upon approval of  
the state investment council after a review by the private  
equity investment advisory committee and the New Mexico film

1 division of the economic development department. The state  
2 investment officer may make debt or equity investments  
3 pursuant to this section only in New Mexico film projects or  
4 New Mexico film private equity funds that invest only in film  
5 projects that:

6 (1) are filmed wholly or substantially in  
7 New Mexico;

8 (2) have shown to the satisfaction of the  
9 New Mexico film division that a distribution contract is in  
10 place with a reputable distribution company;

11 (3) have agreed that, while filming in New  
12 Mexico, a majority of the production crew will be New Mexico  
13 residents;

14 (4) have posted a completion bond that has  
15 been approved by the New Mexico film division; provided that  
16 a completion bond shall not be required if the fund or  
17 project is guaranteed pursuant to Paragraph (5) of this  
18 subsection; and

19 (5) have obtained a full, unconditional and  
20 irrevocable guarantee of repayment of the invested amount in  
21 favor of the severance tax permanent fund:

22 (a) from an entity that has a credit  
23 rating of not less than Baa or BBB by a national rating  
24 agency;

25 (b) from a substantial subsidiary of an SB 916  
Page 2

1 entity that has a credit rating of not less than Baa or BBB  
2 by a national rating agency;

3 (c) by providing a full, unconditional  
4 and irrevocable letter of credit from a United States  
5 incorporated bank with a credit rating of not less than A by  
6 a national rating agency; or

7 (d) from a substantial and solvent  
8 entity as determined by the state investment council in  
9 accordance with its standards and practices; or

10 (6) if not guaranteed pursuant to Paragraph  
11 (5) of this subsection, have obtained no less than one-third  
12 of the estimated total production costs from other sources as  
13 approved by the state investment officer.

14 D. The state investment officer may purchase at a  
15 discount, from an eligible New Mexico film project, up to  
16 eighty percent of an expected and estimated film production  
17 tax credit available to a film production company pursuant to  
18 the provisions of Section 7-2F-1 NMSA 1978. The New Mexico  
19 film division of the economic development department shall  
20 determine the estimated amount of a film production tax  
21 credit. The state investment council shall establish  
22 guidelines for the state investment officer's initiation of a  
23 purchase and the terms of the purchase.

24 E. As used in this section:

25 (1) "committed capital" means the sum of the

1 fixed amounts of money that accredited investors have  
2 obligated for investment in a New Mexico film private equity  
3 fund, which fixed amounts may be invested in that fund in one  
4 or more payments over time;

5 (2) "film project" means a single media or  
6 multimedia program, including advertising messages, fixed on  
7 film, videotape, computer disc, laser disc or other similar  
8 delivery medium from which the program can be viewed or  
9 reproduced and that is intended to be exhibited in theaters;  
10 licensed for exhibition by individual television stations,  
11 groups of stations, networks, cable television stations or  
12 other means; or licensed for the home viewing market; and

13 (3) "New Mexico film private equity fund"  
14 means any limited partnership, limited liability company or  
15 corporation organized and operating in the United States  
16 that:

17 (a) has as its primary business  
18 activity the investment of funds in return for equity in film  
19 projects produced wholly or partly in New Mexico;

20 (b) holds out the prospects for capital  
21 appreciation from such investments; and

22 (c) accepts investments only from  
23 accredited investors as that term is defined in Section 2 of  
24 the federal Securities Act of 1933, as amended, and rules  
25 promulgated pursuant to that section."